

2012 CONFLICT OF INTEREST CODE  
BIENNIAL REVIEW REPLY FORM

COUNTY OF SAN DIEGO  
BOARD OF SUPERVISORS

Contact Person: Susan Cruz Telephone Number: 2012 SEP 25 - 0710 12280

Name of Agency: Otay Water District THOMAS J. PASTUSZKA  
CLERK OF THE BOARD

Mailing Address 2554 Sweetwater Springs Blvd., Spring Valley, CA 91978  
OF SUPERVISORS

This agency has reviewed its conflict of interest code and has determined that:

☒ **Amendments are necessary:** (Attach Amended Code)  
(Check all that applies)

☒ Include new positions (including consultants) which must be designated

☒ Revise the titles of existing positions

☒ Delete titles of positions that have been abolished

☐ Delete positions that manage public investments

☒ Revise disclosure categories

☒ Other update gift limit to \$420 and expanded the definition of prohibited incompatible activities

☐ **No amendments are necessary.** Our agency's code accurately designates all positions which make or participate in the making of governmental decisions; the disclosure assigned to those positions accurately requires the disclosure of all investments, business positions, interests in real property and sources of income which may foresee-ably be affected materially by the decision made by those designated positions; and the code includes all other provisions required by Government Code Section 87302.

Signature of Chief Executive Officer: [Signature] Date: 9/20/2012

You must complete this report regardless of how recently your code was approved or amended. Please return this report no later than October 1, 2012 to:

Clerk of the Board of Supervisors  
(Conflict of Interest Code)  
1600 Pacific Highway, Room 402  
San Diego, CA 92101

|   |                             |
|---|-----------------------------|
| Approved and/or authorized by the<br>Board of Supervisors of the County of San Diego. |                             |
| Meeting Date: <u>12/4/12</u>  | Minute Order No. <u>202</u> |
| By: <u>[Signature]</u><br>Deputy Clerk of the Board Supervisors                       | Date: <u>12/4/12</u>        |



...Dedicated to Community Service

2554 SWEETWATER SPRINGS BOULEVARD, SPRING VALLEY, CALIFORNIA 91978-2004  
TELEPHONE: 670-2222, AREA CODE 619

[www.otaywater.gov](http://www.otaywater.gov)

COUNTY OF SAN DIEGO

BOARD OF SUPERVISORS

2012 OCT 16 PM 4 15

THOMAS J. PASTUSZKA  
CLERK OF THE BOARD  
OF SUPERVISORS

October 12, 2012

Mr. Thomas Pastuszka  
Clerk of the Board of Supervisors  
(Conflict of Interest Code)  
County of San Diego  
1600 Pacific Coast Highway, Rm. 402  
San Diego, CA 92101

Dear Mr. Pastuszka:

As required by Government Code Section 87306.5, I am forwarding a copy of the Otay Water District's amended Conflict of Interest Code adopted by its Board of Directors on October 9, 2012. Also enclosed is a certified copy of the District's Ordinance No. 535 adopting the amendments to the District's Conflict of Interest Code.

If you should have any questions or require anything further, please do not hesitate to call me at 619-670-2280. Thank you.

Sincerely,

Susan Cruz  
District Secretary

Enclosures

DIVISION I        DISTRICT ADMINISTRATION  
CHAPTER 5        PERSONNEL PRACTICES  
SECTION 6        CONFLICT OF INTEREST CODE

COUNTY OF SAN DIEGO  
BOARD OF SUPERVISORS

2012 OCT 16 PM 4 15

6.01        DEFINITIONS

THOMAS J. PASTUSZKA  
CLERK OF THE BOARD  
OF SUPERVISORS

The definitions contained in the Political Reform Act of 1974, regulations of the Fair Political Practices Commission (2 Cal. Code of Regs. Sections 18100, et seq.), and any amendments to the Act or regulations, are incorporated by reference into this conflict of interest code.

6.02        DESIGNATED EMPLOYEES

The persons holding positions listed in the Appendix are designated employees. It has been determined that these persons make or participate in the making of decisions which may foreseeably have a material effect on financial interests.

6.03        DISCLOSURE CATEGORIES

This Code does not establish any disclosure obligation for those designated employees who are also specified in Government Code Section 87200 if they are designated in this code in that same capacity or if the geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction in which those persons must report their financial interest pursuant to Article 2 of Chapter 2 of the Political Reform Act, Government Code Sections 87200, et seq.<sup>1</sup> In addition, this code does not establish any disclosure obligation for any designated public officials who are designated in a conflict of interest code for another agency, if all of the following apply:

(A) The geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction of the other agency;

(B) The disclosure assigned in the code of the other agency is the same as that required under article 2 of chapter 7 of the Political Reform Act, Government Code Section 87200; and

(C) The filing officer is the same for both agencies.

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<sup>1</sup> Designated employees who are required to file statements of economic interest under any other agency's Conflict of Interest Code or under Article 2 for a different jurisdiction, may expand their statement of economic interests to cover reportable interest in both jurisdictions, and file copies of this expanded statement with both entities in lieu of filing separate and district statements, provided that each copy of such expanded statement filed in place of an original is signed and verified by the designated employee as if it were an original. See Government Code Section 81004.

Such persons are covered by this Code for disqualification purposes only. With respect to all other designated employees, the disclosure categories set forth in the Appendix specify which kinds of financial interest are reportable. Such a designated employee shall disclose in his or her statement of economic interest those financial interests he or she has which are of the kind described in the disclosure categories to which he or she is assigned in the Appendix. It has been determined that the financial interests set forth in a designated employee's disclosure categories are the kinds of financial interest which he or she foreseeably can affect materially through the conduct of his or her office.

6.04      STATEMENTS OF ECONOMIC INTERESTS: PLACE OF FILING

All officials and employees required to submit a statement of economic interest (employees in Designated Positions) shall file their statements with the General Manager, or his or her designee. The District shall make and retain a copy of all statements filed by Designated Positions and forward the originals of such statements to the Executive Office of the Board of Supervisors of San Diego County. All retained statements, originals or copies shall be available for public inspection and reproduction. (Cal. Gov't Code § 81008)<sup>2</sup>

6.05      STATEMENTS OF ECONOMIC INTERESTS: TIME OF FILING

(A) Initial Statements. All designated employees employed by the agency on the effective date of this code, as originally adopted, promulgated and approved by the code reviewing body, shall file statements within 30 days after the effective date of this code. Thereafter, each person already in a position when it is designated by an amendment to this code shall file an initial statement within 30 days after the effective date of the amendment.

(B) Assuming Office Statements. All persons assuming designated positions after the effective date of this code shall file statements within 30 days after assuming the designated positions, or if subject to State Senate confirmation, 30 days after being nominated or appointed.

(C) Annual Statements. All designated employees shall file statements no later than April 1.

(D) Leaving Office Statements. All persons who leave designated positions shall file statements within 30 days after leaving office.

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<sup>2</sup> See Government Code section 81010 and 2 Cal. Code of Regs. section 18115 for the duties of filing officers and persons in agencies who make and retain copies of statements and forward the originals to the filing officer.

6.06      STATEMENTS FOR PERSONS WHO RESIGN PRIOR TO ASSUMING OFFICE

Any person who resigns within 12 months of initial appointment, or within 30 days of the date of notice provided by the filing officer to file an assuming office statement, is not deemed to have assumed office or left office, provided he or she did not make or participate in the making of, or use his or her position to influence any decision and did not receive or become entitled to receive any form of payment as a result of his or her appointment. Such persons shall not file either an assuming or a leaving office statement.

(A) Any person who resigns a position within 30 days of the date of a notice from the filing officer shall do both of the following:

1. File a written resignation with the appointing power; and
2. File a written statement with the filing officer declaring under penalty of perjury that during the period between appointment and resignation he or she did not make, participate in the making, or use the position to influence any decision of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position.

6.07      CONTENTS OF AND PERIOD COVERED BY STATEMENTS OF ECONOMIC INTERESTS

(A) Contents of Initial Statements

Initial statements shall disclose any reportable investments, interests in real property and business positions held on the effective date of the code and income received during the 12 months prior to the effective date of the code.

(B) Contents of Assuming Office Statements

Assuming office statements shall disclose any reportable investments, interests in real property and business positions held on the date of assuming office or on the date of appointment, and income received during the 12 months prior to the date of assuming office or the date of being appointed, respectively.

(C) Contents of Annual Statements

Annual statements shall disclose any reportable investments, interests in real property, income and business positions held or received during the previous calendar year provided, however, that the period covered by an employee's first annual statement shall begin on the effective date of the code or the date of assuming office, whichever is later.

(D) Contents of Leaving Office Statements

Leaving office statements shall disclose reportable investments, interest in real property, income and business positions held or received during the period between the closing date of the last statement filed and the date of leaving office.

6.08 MANNER OF REPORTING

Statements of economic interest shall be made on forms prescribed by the Fair Political Practices Commission and supplied by the agency, and shall contain the following information:

(A) Investments and Real Property Disclosure

When an investment or an interest in real property<sup>3</sup> is required to be reported<sup>4</sup>, the statement shall contain the following:

1. A statement of the nature of the investment or interest;
2. The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;
3. The address or other precise location of the real property;
4. A statement whether the fair market value of the investment or interest in real property exceeds two thousand dollars (\$2,000), exceeds ten thousand dollars (\$10,000), exceeds one hundred thousand dollars (\$100,000), or exceeds one million dollars (\$1,000,000).

(B) Personal Income Disclosure

When personal income is required to be reported<sup>5</sup>, the statement shall contain:

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<sup>3</sup> For the purpose of disclosure only (not disqualification), an interest in real property does not include the principal residence of the filer.

<sup>4</sup> Investments and interests in real property which have a fair market value of less than \$2,000 are not investments and interests in real property within the meaning of the Political Reform Act. However, investments or interests in real property of an individual include those held by the individual's spouse and dependent children as well as a pro rata share of any investment or interest in real property of any business entity or trust in which the individual, spouse and dependent children own, in the aggregate, a direct, indirect or beneficial interest of 10 percent or greater.

<sup>5</sup> A designated employee's income includes his or her community property interest in the income of his or her spouse but does not include salary or reimbursement for expenses received from a state, local or federal government agency.

1. The name and address of each source of income aggregating \$500 or more in value or \$50 or more in value if the income was a gift, and a general description of the business activity, if any, of each source;
2. A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was one thousand dollars (\$1,000) or less, greater than one thousand dollars (\$1,000), greater than ten thousand dollars (\$10,000), or greater than one hundred thousand dollars (\$100,000);
3. A description of the consideration, if any, for which the income was received;
4. In the case of a gift, the name, address and business activity of the donor and any intermediary through which the gift was made; a description of the gift; the amount or value of the gift; and the date on which the gift was received;
5. File In the case of a loan, the annual interest rate and the security, if any, given for the loan.

(C) Business Entity Income Disclosure

When income of a business entity, including income of a sole proprietorship is required to be reported<sup>6</sup>, the statement shall contain:

1. The name, address and a general description of the business activity of the business entity;
2. The name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than \$10,000.

(D) Business Position Disclosure

When business positions are required to be reported, a designated employee shall list the name and address of each business entity in

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<sup>6</sup> Income of a business entity is reportable if the direct, indirect or beneficial interest of the filer and the filer's spouse in the business entity aggregates a 10 percent or greater interest. In addition, the disclosure of persons who are clients or customers of a business entity is required only if the clients or customers are within one of the disclosure categories of the filer.

which he or she is a director, officer, partner, trustee, employee or in which he or she holds any position of management, a description of the business activity in which the business entity is engaged, and the designated employee's position with the business entity.

(E) Acquisition or Disposal During Reporting Period

In the case of an annual or leaving office statement, if an investment or an interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the statement shall contain the date of acquisition or disposal.

6.09 PROHIBITION ON RECEIPT OF HONORARIA

A. No designated public official shall accept any honorarium from any source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests.

Subdivisions (a), (b), and (c) of Government Code Section 89501 shall apply to the prohibitions in this section.

This section shall not limit or prohibit payments, advances, or reimbursements for travel and related lodging and subsistence authorized by Government Code section 89506.

6.10 PROHIBITION ON RECEIPT OF GIFTS IN EXCESS OF AMOUNT ESTABLISHED BY LAW<sup>7</sup>

A. No designated public official shall accept gifts with a total value of more than the maximum amount established by law, in any calendar year, from any single source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests.

Subdivisions (e), (f), and (g) of Government Code section 89503 shall apply to the prohibitions in this section.

6.11 LOANS TO PUBLIC OFFICIALS

A. No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any officer, employee, member, or consultant of the state or local government

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<sup>7</sup> Designated Persons are prohibited from accepting gifts from any single source in a calendar year with a total value in excess of designated amounts. See Govt. Code § 89503, sub-divisions (e), (f) and (g). [Note: Pursuant to 2 CCR § 18940.2 (b), the FPPC adjusts the gift limit every odd-numbered year to reflect changes in the Consumer Price Index; therefore, the \$390 limit adopted by the FPPC in January of 2007 will be updated in January 2009 and every odd year thereafter, until further notice.]



agency in which the elected officer holds office or over which the elected officer's agency has direction and control.

B. No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the public official holds office or over which the public official's agency has direction and control. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

C. No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status.

D. No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

E. This section shall not apply to the following:

1. Loans made to the campaign committee of an elected officer or candidate for elective office.

2. Loans made by a public official's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such persons, provided that the person making the

loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.

3. Loans from a person which, in the aggregate, do not exceed five hundred dollars (\$500) at any given time.

4. Loans made, or offered in writing, before January 1, 1998.

#### 6.12 LOAN TERMS

A. Except as set forth in subdivision (B), no elected officer of a state or local government agency shall, from the date of his or her election to office through the date he or she vacates office, receive a personal loan of five hundred dollars (\$500) or more, except when the loan is in writing and clearly states the terms of the loan, including the parties to the loan agreement, date of the loan, amount of the loan, term of the loan, date or dates when payments shall be due on the loan and the amount of the payments, and the rate of interest paid on the loan.

B. This section shall not apply to the following types of loans:

1. Loans made to the campaign committee of the elected officer.

2. Loans made to the elected officer by his or her spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.

3. Loans made, or offered in writing, before January 1, 1998.

4. Nothing in this section shall exempt any person from any other provision of Title 9 of the Government Code.

#### 6.13 PERSONAL LOANS

A. Except as set forth in subdivision (B), a personal loan received by any designated public official shall become a gift to the designated public official for the purposes of this section in the following circumstances:

1. If the loan has a defined date or dates for repayment, when the statute of limitations for filing an action for default has expired.

2. If the loan has no defined date or dates for repayment, when one year has elapsed from the later of the following:

a. The date the loan was made.

b. The date the last payment of one hundred dollars (\$100) or more was made on the loan.

c. The date upon which the debtor has made payments on the loan aggregating to less than two hundred fifty dollars (\$250) during the previous 12 months.

B. This section shall not apply to the following types of loans:

1. A loan made to the campaign committee of an elected officer or a candidate for elective office.

2. A loan that would otherwise not be a gift as defined in this title.

3. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor has taken reasonable action to collect the balance due.

4. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor, based on reasonable business considerations, has not undertaken collection action. Except in a criminal action, a creditor who claims that a loan is not a gift on the basis of this paragraph has the burden of proving that the decision for not taking collection action was based on reasonable business considerations.

5. A loan made to a debtor who has filed for bankruptcy and the loan is ultimately discharged in bankruptcy.

C. Nothing in this section shall exempt any person from any other provisions of Title 9 of the Government Code.

#### 6.14 DISQUALIFICATION

No designated employee shall make, participate in making, or in any way attempt to use his or her official position to influence the making of any governmental decision which he or she knows or has reason to know will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on the official or a member of his or her immediate family or on:

(A) Any business entity in which the designated employee has a direct or indirect investment worth \$2,000 or more;

(B) Any real property in which the designated employee has a direct or indirect interest worth \$2,000 or more;

(C) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to

official status, aggregating \$500 or more in value provided to, received by or promised to the designated employee within 12 months prior to the time when the decision is made;

- (D) Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management; or
- (E) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating to the maximum amount established by law, or more, in value provided to, received by, or promised to the designated employee within 12 months prior to the time when the decision is made.

#### 6.15 LEGALLY REQUIRED PARTICIPATION

No designated public official shall be prevented from making or participating in the making of any decision to the extent his or her participation is legally required for the decision to be made. The fact that the vote of a designated public official who is on a voting body is needed to break a tie does not make his or her participation legally required for purposes of this section.

#### 6.16 DISQUALIFICATION OF STATE OFFICERS AND EMPLOYEES

In addition to the general disqualification provisions of Section 6.14, no state administrative official shall make, participate in making, or use his or her official position to influence any governmental decision directly relating to any contract where the state administrative official knows or has reason to know that any party to the contract is a person with whom the state administrative official, or any member of his or her immediate family has, within 12 months prior to the time when the official action is to be taken:

- (A) Engaged in a business transaction or transactions on terms not available to members of the public, regarding any investment or interest in real property; or
- (B) Engaged in a business transaction or transactions on terms not available to members of the public regarding the rendering of goods or services totaling in value \$1000 or more.

#### 6.17 DISCLOSURE OF DISQUALIFYING INTEREST

When a designated public official determines that he or she should not make a governmental decision because he or she has a

disqualifying interest in it, the determination not to act may be accompanied by disclosure of the disqualifying interest.

6.18        ASSISTANCE OF THE COMMISSION AND COUNSEL

Any designated employee who is unsure of his or her duties under this code may request assistance from the Fair Political Practices Commission pursuant to Government Code Section 83114 or from the attorney for his or her agency, provided that nothing in this section requires the attorney for the agency to issue any formal or informal opinion.

6.19        VIOLATIONS

This code has the force and effect of law. Designated employees violating any provision of this code are subject to the administrative, criminal and civil sanctions provided in the Political Reform Act, Government Code Sections 81000 - 91015. In addition, a decision in relation to which a violation of the disqualification provisions of this code or of Government Code Section 87100 or 87450 has occurred may be set aside as void pursuant to Government Code Section 91003.

6.20        PROHIBITED TRANSACTIONS

Members of the Board of Directors and Designated Employees shall comply with the Prohibited Transactions policy, annexed hereto as Exhibit A, pursuant to California Government Code Sections 1090, et seq.

6.21        INCOMPATIBLE ACTIVITIES

Members of the Board of Directors, District officers, and all other District employees shall comply with the Incompatible Activities policy, annexed hereto as Exhibit B, pursuant to California Government Code Sections 1126, et seq.

## APPENDIX

### OTAY WATER DISTRICT CONFLICT OF INTEREST CODE DESIGNATED POSITIONS

The Treasurer and all District Officials who manage the investment of public funds are included in and governed by this Conflict of Interest Code only with respect to its disqualification provisions. For purposes of disclosure, the Treasurer and all District Officials who manage the investment of public funds are governed by the statutory conflict of interest provisions of Article 2 of Chapter 7 of the Political Reform Act of 1974. (Government Code Sections 87200, et seq.)

#### DESIGNATED EMPLOYEES'

| <u>TITLE OR FUNCTION</u>                   | <u>DISCLOSURE CATEGORIES ASSIGNED</u> |
|--|---------------------------------------|
| Members of the Board of Directors          | 1, 2, 3, 4, 5, 6                      |
| General Manager                            | 1, 2, 3, 4, 5, 6                      |
| District Secretary                         | 6                                     |
| Asst. General Manager,                     | 1, 2, 3, 4, 5, 6, 7                   |
| Chief of Administrative Services           | 1, 2, 3, 4, 5, 6                      |
| Chief Financial Officer                    | 1, 2, 5, 7                            |
| Chief Information Officer                  | 1, 3, 7                               |
| Chief of Engineering                       | 1, 2, 3, 4, 7                         |
| Chief of Water Operations                  | 1, 2, 3, 4, 7                         |
| Associate Civil Engineer                   | 1, 2, 3, 4, 7                         |
| Communications Officer                     | 6                                     |
| Customer Service Manager                   | 2, 5, 7                               |
| Environmental Compliance<br>Specialist     | 1, 2, 3, 4, 7                         |
| Engineering Manager/                       | 1, 2, 3, 4, 7                         |
| Finance Manager, Controller,<br>and Budget | 2, 5, 7                               |

|  |                  |
|--|------------------|
| Finance Manager, Treasury,<br>and Accounting | 2, 5, 7          |
| GIS Manager                                  | 3, 6, 7          |
| Human Resources Manager                      | 3, 6             |
| IT Manager                                   | 3, 6, 7          |
| Network Engineer                             | 3, 6, 7          |
| Purchasing and Facilities Manager            | 2, 6             |
| Safety and Security Administrator            | 1, 2, 3, 4, 6    |
| Senior Buyer                                 | 6                |
| Senior Civil Engineer                        | 1, 2, 3, 4, 7    |
| System Operations Manager                    | 1, 2, 3, 4, 7    |
| Utility Services Manager                     | 1, 2, 3, 4, 7    |
| Water Conservation Manager                   | 2, 3, 4, 6       |
| Consultant <sup>8</sup>                      | 1, 2, 3, 4, 5, 6 |

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<sup>8</sup> Consultants are required to file disclosure statements where they: (a) conduct research and arrive at conclusions with respect to rendition of information, advice, recommendation or counsel independent of control and direction of the agency or any agency official other than normal contract monitoring; and (b) possess no authority with respect to any agency decision beyond the rendition of information, advice, recommendation or counsel. The determination as to whether a consultant shall be required to file a disclosure statement shall be made by the General Manager or his or her designee.

## APPENDIX, CONTINUED

### DISCLOSURE CATEGORIES

The disclosure categories listed below identify the types of investments, business entities, sources of income, or real property which the designated employee must disclose for each disclosure category to which he or she is assigned.

Category 1: All investments and business positions in, and sources of income from, all business entities that do business or own real property in the District, plan to do business or own real property in the District within the next year or have done business or owned real property in the District within the past two years.

Category 2: All interests in real property which are located in whole or in part within, or not more than two (2) miles outside the boundaries of the District.

Category 3: All investments and business positions in, and sources of income from, business entities subject to the regulatory, permit or licensing authority of the Designated Employee's Department, will be subject to such authority within the next year or have been subject to such authority within the past two years.

Category 4: All investments, business positions, and sources of income from, business entities that are engaged in land development, construction or the acquisition or sale of real property in the District, plan to engage in such activities in the District within the next year or have engaged in such activities in the District within the past two years.

Category 5: All investments and business positions in, and sources of income from, business entities that are banking, savings and loan or other financial institutions.

Category 6: All investments and business positions in, and sources of income from, business entities that provide services, supplies, materials, machinery or equipment of a type purchased, leased, used, or administered by the District.

Category 7: All investments and business positions in, and sources of income from, business entities that provide services, supplies, materials, machinery or equipment of a type purchased, leased, used, or administered by the Designated Employee's Department.



## EXHIBIT A

### Prohibited Transactions for Specified Personnel

Members of the Board of Directors ("Members") shall comply with this Prohibited Transactions policy pursuant to California Government Code §§ 1090, et seq.

Members shall not be financially interested in any contract made by them in their official capacity, or by any body or board of which they are members. Members shall not be purchasers at any sale or vendors at any purchase made by them in their official capacity. Members shall not be deemed to be interested in a contract entered into by a body or board of which they are members if the Member has only a remote interest in the contract and if the fact of that interest is disclosed to the body or board of which the Member is a member and noted in its official records, and thereafter the body or board authorizes, approves, or ratifies the contract in good faith by a vote of its membership sufficient for the purpose without counting the vote or votes of the Board of Directors member with the remote interest. "Remote interest" shall be defined as in California Government Code § 1091(b).

Members shall not be considered to be financially interested in a contract if their interest is including, but not limited to, any of the following (Government Code § 1091.5):

1. That of an officer in being reimbursed for his/her actual and necessary expenses incurred in the performance of an official duty;
2. That of a recipient of public services generally provided by the public body or board of which he/she is a member, on the same terms and conditions as if he or she were not a member of the board;
3. That of a landlord or tenant of the contracting party if such contracting party is the federal government or any federal department or agency, this state or an adjoining state, any department or agency of this state or an adjoining state, any county or city of this state or an adjoining state, or a public corporation or special, judicial or other public district of this state or an adjoining state unless the subject matter of such contract is the property in which such officer or employee has such interest as landlord or tenant in which even his/her interest shall be deemed a remote interest within the meaning of, and subject to, the provisions of Government Code 1091;
4. That of a spouse of an officer or employee of a public agency if his/her spouse's employment or office-holding has

existed for at least one year prior to his/her election or appointment;

5. That of a non-salaried member of a nonprofit corporation, provided that such interest is disclosed to the board at the time of the first consideration of the contract, and provided further that such interest is noted in its official records;
6. That of a non-compensated officer of a nonprofit, tax-exempt corporation, which, as one of its primary purposes, supports the functions of the board or to which the board has legal obligation to give particular consideration, and provided further that such interest is noted in its official records;
7. That of compensation for employment with a governmental agency, other than the governmental agency that employs the officer or employee, provided that the interest is disclosed to the board at the time of consideration of the contract, and provided further that the interest is noted in its official records;
8. That of an attorney of the contracting party or that of an owner, officer, employee or agent of a firm which renders, or has rendered, service to the contracting party in the capacity of stockbroker, insurance agent, insurance broker, real estate agent, or real estate broker if these individuals have not received and will not receive remuneration, consideration, or a commission as a result of the contract and if these individuals have an ownership interest of less than 10 percent in the law practice or firm, stock brokerage firm, insurance firm or real estate firm.

In addition, Members shall not be deemed to be interested in a contract made pursuant to competitive bidding under a procedure established by law if their sole interest is that of an officer, director, or employee of a bank or savings and loan association with which a party to the contract has the relationship of borrower or depositor, debtor or creditor (Government Code § 1091.5).

**Authority:**

California Government Code §§ 1090, et seq.

## **EXHIBIT B**

### **Incompatible Activities Policy**

District officers, members of the Board of Directors, and all other District employees (collectively, "district personnel") shall comply with this Incompatible Activities policy pursuant to California Government Code §§ 1126, *et seq.*

District personnel shall not engage in any employment, activity, or enterprise for compensation which is inconsistent, incompatible, in conflict with, or inimical to his or her duties as a member of the Board of Directors, or with the duties, functions, or responsibilities of his or her appointing power or the agency by which he or she is employed.

The outside employment, activity, or enterprise of district personnel is prohibited if it: (1) involves the use for private gain or advantage of his or her local District time, facilities, equipment and supplies; or the badge, uniform, prestige, or influence of his or her local District office or employment or, (2) involves receipt or acceptance by district personnel of any money or other consideration from anyone other than the District for the performance of an act which district personnel, if not performing such act, would be required or expected to render in the regular course or hours of their local District employment or as a part of their duties as a local District officer or employee or, (3) involves the time demands as would render performance of his or her duties as a local district personnel member less efficient.

Nothing in this policy shall be interpreted to prohibit any outside employment, activity, counsel, or enterprise on behalf of another governmental entity, subject to common law and professional conflict of interest rules.

Copies of this regulation shall be posted in prominent places at the District Office. District personnel who violate this regulation may be subject to discipline as set forth in the applicable Code of Ordinances and Policies. Board of Directors members who violate this section may be subject to censure. Disciplinary appeals by district personnel shall be handled pursuant to applicable Code of Ordinances and Policies.

#### **Authority:**

California Government Code §§ 1125, *et seq.*

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF SAN DIEGO)

COUNTY OF SAN DIEGO  
BOARD OF SUPERVISORS

2012 OCT 16 PM 4 15

THOMAS J. PASTUSZKA  
DISTRICT 46 OF THE BOARD  
OF SUPERVISORS

I, Susan Cruz, District Secretary of the OTAY WATER DISTRICT do  
hereby certify that the foregoing is a true and correct copy of Ordinance No. 535  
adopted by the Board of Directors of the OTAY WATER DISTRICT at a regular  
board meeting held the 9<sup>th</sup> day of October, 2012.

Date: October 12, 2012

  
\_\_\_\_\_  
District Secretary of the Otay Water  
District and the Board of Directors  
Thereof

ORDINANCE NO. 535

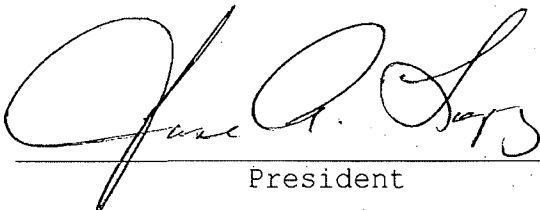
AN ORDINANCE OF THE BOARD OF DIRECTORS  
OF THE OTAY WATER DISTRICT  
AMENDING SECTION 6,  
CONFLICT OF INTEREST CODE,  
OF THE DISTRICT'S CODE OF ORDINANCE

BE IT ORDAINED by the Board of Directors of Otay Water District that the District's Code of Ordinances, Section 6, Conflict of Interest Code, be amended to update the gift limit, the definition of prohibited incompatible activities, expand the list of positions required to file a Form 700, update/delete position titles that no longer exist and amend the disclosure categories. The amendments are presented in Exhibit A attached to this ordinance.

NOW, THEREFORE, BE IT RESOLVED that the amendments to Section 6, Conflict of Interest Code, to the District's Code of Ordinances shall become effective immediately upon adoption.

PASSED, APPROVED AND ADOPTED by the Board of Directors of the Otay Water District at a regular meeting duly held this 9<sup>th</sup> day of October 2012, by the following vote:

AYES: Directors Croucher, Gonzalez, Lopez, Robak and Thompson  
NOES: None  
ABSENT: None  
ABSTAIN: None

  
President

ATTEST:

  
District Secretary

## Exhibit A

DIVISION I        DISTRICT ADMINISTRATION  
CHAPTER 5        PERSONNEL PRACTICES  
SECTION 6        CONFLICT OF INTEREST CODE

6.01        DEFINITIONS

The definitions contained in the Political Reform Act of 1974, regulations of the Fair Political Practices Commission (2 Cal. Code of Regs. Sections 18100, et seq.), and any amendments to the Act or regulations, are incorporated by reference into this conflict of interest code.

6.02        DESIGNATED EMPLOYEES

The persons holding positions listed in the Appendix are designated employees. It has been determined that these persons make or participate in the making of decisions which may foreseeably have a material effect on financial interests.

6.03        DISCLOSURE CATEGORIES

This Code does not establish any disclosure obligation for those designated employees who are also specified in Government Code Section 87200 if they are designated in this code in that same capacity or if the geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction in which those persons must report their financial interest pursuant to Article 2 of Chapter 2 of the Political Reform Act, Government Code Sections 87200, et seq.<sup>1</sup> In addition, this code does not establish any disclosure obligation for any designated public officials who are designated in a conflict of interest code for another agency, if all of the following apply:

(A) The geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction of the other agency;

(B) The disclosure assigned in the code of the other agency is the same as that required under article 2 of chapter 7 of the Political Reform Act, Government Code Section 87200; and

(C) The filing officer is the same for both agencies.

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<sup>1</sup> Designated employees who are required to file statements of economic interest under any other agency's Conflict of Interest Code or under Article 2 for a different jurisdiction, may expand their statement of economic interests to cover reportable interest in both jurisdictions, and file copies of this expanded statement with both entities in lieu of filing separate and district statements, provided that each copy of such expanded statement filed in place of an original is signed and verified by the designated employee as if it were an original. See Government Code Section 81004.

Such persons are covered by this Code for disqualification purposes only. With respect to all other designated employees, the disclosure categories set forth in the Appendix specify which kinds of financial interest are reportable. Such a designated employee shall disclose in his or her statement of economic interest those financial interests he or she has which are of the kind described in the disclosure categories to which he or she is assigned in the Appendix. It has been determined that the financial interests set forth in a designated employee's disclosure categories are the kinds of financial interest which he or she foreseeably can affect materially through the conduct of his or her office.

6.04        STATEMENTS OF ECONOMIC INTERESTS: PLACE OF FILING

All officials and employees required to submit a statement of economic interest (employees in Designated Positions) shall file their statements with the General Manager, or his or her designee. The District shall make and retain a copy of all statements filed by Designated Positions and forward the originals of such statements to the Executive Office of the Board of Supervisors of San Diego County. All retained statements, originals or copies shall be available for public inspection and reproduction. (Cal. Gov't Code § 81008)<sup>2</sup>

6.05        STATEMENTS OF ECONOMIC INTERESTS: TIME OF FILING

(A) Initial Statements. All designated employees employed by the agency on the effective date of this code, as originally adopted, promulgated and approved by the code reviewing body, shall file statements within 30 days after the effective date of this code. Thereafter, each person already in a position when it is designated by an amendment to this code shall file an initial statement within 30 days after the effective date of the amendment.

(B) Assuming Office Statements. All persons assuming designated positions after the effective date of this code shall file statements within 30 days after assuming the designated positions, or if subject to State Senate confirmation, 30 days after being nominated or appointed.

(C) Annual Statements. All designated employees shall file statements no later than April 1.

(D) Leaving Office Statements. All persons who leave designated positions shall file statements within 30 days after leaving office.

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<sup>2</sup> See Government Code section 81010 and 2 Cal. Code of Regs. section 18115 for the duties of filing officers and persons in agencies who make and retain copies of statements and forward the originals to the filing officer.

STATEMENTS FOR PERSONS WHO RESIGN PRIOR TO ASSUMING OFFICE

Any person who resigns within 12 months of initial appointment, or within 30 days of the date of notice provided by the filing officer to file an assuming office statement, is not deemed to have assumed office or left office, provided he or she did not make or participate in the making of, or use his or her position to influence any decision and did not receive or become entitled to receive any form of payment as a result of his or her appointment. Such persons shall not file either an assuming or a leaving office statement.

(A) Any person who resigns a position within 30 days of the date of a notice from the filing officer shall do both of the following:

1. File a written resignation with the appointing power; and
2. File a written statement with the filing officer declaring under penalty of perjury that during the period between appointment and resignation he or she did not make, participate in the making, or use the position to influence any decision of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position.

CONTENTS OF AND PERIOD COVERED BY STATEMENTS OF ECONOMIC INTERESTS

(A) Contents of Initial Statements

Initial statements shall disclose any reportable investments, interests in real property and business positions held on the effective date of the code and income received during the 12 months prior to the effective date of the code.

(B) Contents of Assuming Office Statements

Assuming office statements shall disclose any reportable investments, interests in real property and business positions held on the date of assuming office or on the date of appointment, and income received during the 12 months prior to the date of assuming office or the date of being appointed, respectively.

(C) Contents of Annual Statements

Annual statements shall disclose any reportable investments, interests in real property, income and business positions held or received during the previous calendar year provided, however, that the period covered by an employee's first annual statement shall begin on the effective date of the code or the date of assuming office, whichever is later.



(D) Contents of Leaving Office Statements

Leaving office statements shall disclose reportable investments, interest in real property, income and business positions held or received during the period between the closing date of the last statement filed and the date of leaving office.

6.08 MANNER OF REPORTING

Statements of economic interest shall be made on forms prescribed by the Fair Political Practices Commission and supplied by the agency, and shall contain the following information:

(A) Investments and Real Property Disclosure

When an investment or an interest in real property<sup>3</sup> is required to be reported<sup>4</sup>, the statement shall contain the following:

1. A statement of the nature of the investment or interest;
2. The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;
3. The address or other precise location of the real property;
4. A statement whether the fair market value of the investment or interest in real property exceeds two thousand dollars (\$2,000), exceeds ten thousand dollars (\$10,000), exceeds one hundred thousand dollars (\$100,000), or exceeds one million dollars (\$1,000,000).

(B) Personal Income Disclosure

When personal income is required to be reported<sup>5</sup>, the statement shall contain:

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<sup>3</sup> For the purpose of disclosure only (not disqualification), an interest in real property does not include the principal residence of the filer.

<sup>4</sup> Investments and interests in real property which have a fair market value of less than \$2,000 are not investments and interests in real property within the meaning of the Political Reform Act. However, investments or interests in real property of an individual include those held by the individual's spouse and dependent children as well as a pro rata share of any investment or interest in real property of any business entity or trust in which the individual, spouse and dependent children own, in the aggregate, a direct, indirect or beneficial interest of 10 percent or greater.

<sup>5</sup> A designated employee's income includes his or her community property interest in the income of his or her spouse but does not include salary or reimbursement for expenses received from a state, local or federal government agency.

1. The name and address of each source of income aggregating \$500 or more in value or \$50 or more in value if the income was a gift, and a general description of the business activity, if any, of each source;
2. A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was one thousand dollars (\$1,000) or less, greater than one thousand dollars (\$1,000), greater than ten thousand dollars (\$10,000), or greater than one hundred thousand dollars (\$100,000);
3. A description of the consideration, if any, for which the income was received;
4. In the case of a gift, the name, address and business activity of the donor and any intermediary through which the gift was made; a description of the gift; the amount or value of the gift; and the date on which the gift was received;
5. File In the case of a loan, the annual interest rate and the security, if any, given for the loan.

(C) Business Entity Income Disclosure

When income of a business entity, including income of a sole proprietorship is required to be reported<sup>6</sup>, the statement shall contain:

1. The name, address and a general description of the business activity of the business entity;
2. The name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than \$10,000.

(D) Business Position Disclosure

When business positions are required to be reported, a designated employee shall list the name and address of each business entity in

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<sup>6</sup> Income of a business entity is reportable if the direct, indirect or beneficial interest of the filer and the filer's spouse in the business entity aggregates a 10 percent or greater interest. In addition, the disclosure of persons who are clients or customers of a business entity is required only if the clients or customers are within one of the disclosure categories of the filer.

which he or she is a director, officer, partner, trustee, employee or in which he or she holds any position of management, a description of the business activity in which the business entity is engaged, and the designated employee's position with the business entity.

(E) Acquisition or Disposal During Reporting Period

In the case of an annual or leaving office statement, if an investment or an interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the statement shall contain the date of acquisition or disposal.

6.09 PROHIBITION ON RECEIPT OF HONORARIA

A. No designated public official shall accept any honorarium from any source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests.

Subdivisions (a), (b), and (c) of Government Code Section 89501 shall apply to the prohibitions in this section.

This section shall not limit or prohibit payments, advances, or reimbursements for travel and related lodging and subsistence authorized by Government Code section 89506.

6.10 PROHIBITION ON RECEIPT OF GIFTS IN EXCESS OF AMOUNT ESTABLISHED BY LAW<sup>7</sup>

A. No designated public official shall accept gifts with a total value of more than the maximum amount established by law, in any calendar year, from any single source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests.

Subdivisions (e), (f), and (g) of Government Code section 89503 shall apply to the prohibitions in this section.

6.11 LOANS TO PUBLIC OFFICIALS

A. No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any officer, employee, member, or consultant of the state or local government

<sup>7</sup> Designated Persons are prohibited from accepting gifts from any single source in a calendar year with a total value in excess of designated amounts. See Govt. Code § 89503, sub-divisions (e), (f) and (g). [Note: Pursuant to 2 CCR § 18940.2 (b)(a), the FPCC adjusts the gift limit every odd-numbered year to reflect changes in the Consumer Price Index; therefore, the ~~\$390-420~~ limit adopted by the FPCC in January of ~~2007-2011~~ will be updated in January ~~2009-2013~~ and every odd year thereafter, until further notice.]

agency in which the elected officer holds office or over which the elected officer's agency has direction and control.

B. No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the public official holds office or over which the public official's agency has direction and control. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

C. No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status.

D. No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

E. This section shall not apply to the following:

1. Loans made to the campaign committee of an elected officer or candidate for elective office.

2. Loans made by a public official's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such persons, provided that the person making the

loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.

3. Loans from a person which, in the aggregate, do not exceed five hundred dollars (\$500) at any given time.

4. Loans made, or offered in writing, before January 1, 1998.

#### 6.12 LOAN TERMS

A. Except as set forth in subdivision (B), no elected officer of a state or local government agency shall, from the date of his or her election to office through the date he or she vacates office, receive a personal loan of five hundred dollars (\$500) or more, except when the loan is in writing and clearly states the terms of the loan, including the parties to the loan agreement, date of the loan, amount of the loan, term of the loan, date or dates when payments shall be due on the loan and the amount of the payments, and the rate of interest paid on the loan.

B. This section shall not apply to the following types of loans:

1. Loans made to the campaign committee of the elected officer.

2. Loans made to the elected officer by his or her spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.

3. Loans made, or offered in writing, before January 1, 1998.

4. Nothing in this section shall exempt any person from any other provision of Title 9 of the Government Code.

#### 6.13 PERSONAL LOANS

A. Except as set forth in subdivision (B), a personal loan received by any designated public official shall become a gift to the designated public official for the purposes of this section in the following circumstances:

1. If the loan has a defined date or dates for repayment, when the statute of limitations for filing an action for default has expired.

2. If the loan has no defined date or dates for repayment, when one year has elapsed from the later of the following:

a. The date the loan was made.

b. The date the last payment of one hundred dollars (\$100) or more was made on the loan.

c. The date upon which the debtor has made payments on the loan aggregating to less than two hundred fifty dollars (\$250) during the previous 12 months.

B. This section shall not apply to the following types of loans:

1. A loan made to the campaign committee of an elected officer or a candidate for elective office.

2. A loan that would otherwise not be a gift as defined in this title.

3. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor has taken reasonable action to collect the balance due.

4. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor, based on reasonable business considerations, has not undertaken collection action. Except in a criminal action, a creditor who claims that a loan is not a gift on the basis of this paragraph has the burden of proving that the decision for not taking collection action was based on reasonable business considerations.

5. A loan made to a debtor who has filed for bankruptcy and the loan is ultimately discharged in bankruptcy.

C. Nothing in this section shall exempt any person from any other provisions of Title 9 of the Government Code.

#### 6.14 DISQUALIFICATION

No designated employee shall make, participate in making, or in any way attempt to use his or her official position to influence the making of any governmental decision which he or she knows or has reason to know will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on the official or a member of his or her immediate family or on:

(A) Any business entity in which the designated employee has a direct or indirect investment worth \$2,000 or more;

(B) Any real property in which the designated employee has a direct or indirect interest worth \$2,000 or more;

(C) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to

official status, aggregating \$500 or more in value provided to, received by or promised to the designated employee within 12 months prior to the time when the decision is made;

- (D) Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management; or
- (E) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating to the maximum amount established by law, or more, in value provided to, received by, or promised to the designated employee within 12 months prior to the time when the decision is made.

#### 6.15 LEGALLY REQUIRED PARTICIPATION

No designated public official shall be prevented from making or participating in the making of any decision to the extent his or her participation is legally required for the decision to be made. The fact that the vote of a designated public official who is on a voting body is needed to break a tie does not make his or her participation legally required for purposes of this section.

#### 6.16 DISQUALIFICATION OF STATE OFFICERS AND EMPLOYEES

In addition to the general disqualification provisions of Section 6.14, no state administrative official shall make, participate in making, or use his or her official position to influence any governmental decision directly relating to any contract where the state administrative official knows or has reason to know that any party to the contract is a person with whom the state administrative official, or any member of his or her immediate family has, within 12 months prior to the time when the official action is to be taken:

- (A) Engaged in a business transaction or transactions on terms not available to members of the public, regarding any investment or interest in real property; or
- (B) Engaged in a business transaction or transactions on terms not available to members of the public regarding the rendering of goods or services totaling in value \$1000 or more.

#### 6.17 DISCLOSURE OF DISQUALIFYING INTEREST

When a designated public official determines that he or she should not make a governmental decision because he or she has a

disqualifying interest in it, the determination not to act may be accompanied by disclosure of the disqualifying interest.

6.18        ASSISTANCE OF THE COMMISSION AND COUNSEL

Any designated employee who is unsure of his or her duties under this code may request assistance from the Fair Political Practices Commission pursuant to Government Code Section 83114 or from the attorney for his or her agency, provided that nothing in this section requires the attorney for the agency to issue any formal or informal opinion.

6.19        VIOLATIONS

This code has the force and effect of law. Designated employees violating any provision of this code are subject to the administrative, criminal and civil sanctions provided in the Political Reform Act, Government Code Sections 81000 - 91015. In addition, a decision in relation to which a violation of the disqualification provisions of this code or of Government Code Section 87100 or 87450 has occurred may be set aside as void pursuant to Government Code Section 91003.

6.20        PROHIBITED TRANSACTIONS

Members of the Board of Directors and Designated Employees shall comply with the Prohibited Transactions policy, annexed hereto as Exhibit A, pursuant to California Government Code Sections 1090, et seq.

6.21        INCOMPATIBLE ACTIVITIES

Members of the Board of Directors, District officers, and all other District employees shall comply with the Incompatible Activities policy, annexed hereto as Exhibit B, pursuant to California Government Code Sections 1126, et seq.



## APPENDIX

### OTAY WATER DISTRICT CONFLICT OF INTEREST CODE DESIGNATED POSITIONS

The Treasurer and all District Officials who manage the investment of public funds are included in and governed by this Conflict of Interest Code only with respect to its disqualification provisions. For purposes of disclosure, the Treasurer and all District Officials who manage the investment of public funds are governed by the statutory conflict of interest provisions of Article 2 of Chapter 7 of the Political Reform Act of 1974. (Government Code Sections 87200, et seq.)

#### DESIGNATED EMPLOYEES'

#### TITLE OR FUNCTION

#### DISCLOSURE CATEGORIES ASSIGNED

|   |                                      |
|---|--------------------------------------|
| Members of the Board of Directors                               | 1, 2, 3, 4, 5, 6                     |
| General Manager   | 1, 2, 3, 4, 5, 6                     |
| <del>Secretary of District</del> Secretary                      | 6                                    |
| Asst. General Manager,<br><del>Finance and Administration</del> | 1, 2, 3, 4, 5, 6, <del>7</del>       |
| Asst. General Manager,<br><del>Engineering and Operations</del> | 1, 2, 3, 4, 6, <del>7</del>          |
| Chief of Administrative Services                                | 1, 2, 3, 4, 5, <del>6</del> <u>7</u> |
| Chief Financial Officer   | 1, 2, 5, 7                           |
| Chief Information Officer                                       | 1, 3, 7                              |
| Chief of Engineering  | 1, 2, 3, 4, 7                        |
| Chief of Water Operations                                       | 1, 2, 3, 4, 7                        |
| Associate Civil Engineer  | 1, 2, 3, 4, 7                        |
| Communications Officer  | 6                                    |
| Customer Service Manager  | 2, 5, 7                              |
| Environmental Compliance<br>Specialist                          | 1, 2, 3, 4, 7                        |

|  |                          |
|--|--------------------------|
| Engineering Manager/ <del>Design,</del>      | <u>1, 2, 3, 4, 7</u>     |
| <del>Construction, and Planning</del>        | <del>1, 2, 3, 4, 7</del> |
| <del>Engineering Manager/Water</del>         |                          |
| <del>Resources</del>                         | <del>1, 2, 3, 4, 7</del> |
| Finance Manager, Controller,<br>and Budget   | 2, 5, 7                  |
| Finance Manager, Treasury,<br>and Accounting | 2, 5, 7                  |
| GIS Manager                                  | 3, <del>6</del> , 7      |
| Human Resources Manager                      | 3, 6                     |
| IT <del>Operations</del> Manager             | 3, <del>6</del> , 7      |
| Network Engineer                             | 3, <del>6</del> , 7      |
| <del>Public Services Manager</del>           | <del>1, 2, 3, 4, 7</del> |
| Purchasing and Facilities Manager            | 2, 6                     |
| <u>Safety and Security Administrator</u>     | <u>1, 2, 3, 4, 6</u>     |
| Senior Buyer                                 | 6                        |
| Senior Civil Engineer                        | 1, 2, 3, 4, 7            |
| System Operations Manager                    | 1, 2, 3, 4, 7            |
| Utility Services Manager                     | 1, 2, 3, 4, 7            |
| Water Conservation Manager                   | 2, 3, 4, 6               |
| Consultant <sup>8</sup>                      | 1, 2, 3, 4, 5, 6         |

<sup>8</sup> Consultants are required to file disclosure statements where they: (a) conduct research and arrive at conclusions with respect to rendition of information, advice, recommendation or counsel independent of control and direction of the agency or any agency official other than normal contract monitoring; and (b) possess no authority with respect to any agency decision beyond the rendition of information, advice, recommendation or counsel. The determination as to whether a consultant shall be required to file a disclosure statement shall be made by the General Manager or his or her designee.

## APPENDIX, CONTINUED

### DISCLOSURE CATEGORIES

The disclosure categories listed below identify the types of investments, business entities, sources of income, or real property which the designated employee must disclose for each disclosure category to which he or she is assigned.

Category 1: All investments and business positions in, and sources of income from, all business entities that do business or own real property in the District, plan to do business or own real property in the District within the next year or have done business or owned real property in the District within the past two years.

Category 2: All interests in real property which are located in whole or in part within, or not more than two (2) miles outside the boundaries of the District.

Category 3: All investments and business positions in, and sources of income from, business entities subject to the regulatory, permit or licensing authority of the Designated Employee's Department, will be subject to such authority within the next year or have been subject to such authority within the past two years.

| Category 4: All investments, ~~in~~ business positions, and sources of income from, business entities that are engaged in land development, construction or the acquisition or sale of real property in the District, plan to engage in such activities in the District within the next year or have engaged in such activities in the District within the past two years.

Category 5: All investments and business positions in, and sources of income from, business entities that are banking, savings and loan or other financial institutions.

| Category 6: All investments and business positions in, and sources of income from, business entities that provide services, supplies, materials, machinery or equipment of a type purchased ~~or~~ leased, used, or administered by the District.

| Category 7: All investments and business positions in, and sources of income from business entities that provide services, supplies, materials, machinery or equipment of a type purchased, leased, used, or administered by the Designated Employee's Department.

## EXHIBIT A

### Prohibited Transactions for Specified Personnel

Members of the Board of Directors ("Members") shall comply with this Prohibited Transactions policy pursuant to California Government Code §§ 1090, *et seq.*

Members shall not be financially interested in any contract made by them in their official capacity, or by any body or board of which they are members. Members shall not be purchasers at any sale or vendors at any purchase made by them in their official capacity. Members shall not be deemed to be interested in a contract entered into by a body or board of which they are members if the Member has only a remote interest in the contract and if the fact of that interest is disclosed to the body or board of which the Member is a member and noted in its official records, and thereafter the body or board authorizes, approves, or ratifies the contract in good faith by a vote of its membership sufficient for the purpose without counting the vote or votes of the Board of Directors member with the remote interest. "Remote interest" shall be defined as in California Government Code § 1091(b).

Members shall not be considered to be financially interested in a contract if their interest is including, but not limited to, any of the following (Government Code § 1091.5):

1. That of an officer in being reimbursed for his/her actual and necessary expenses incurred in the performance of an official duty;
2. That of a recipient of public services generally provided by the public body or board of which he/she is a member, on the same terms and conditions as if he or she were not a member of the board;
3. That of a landlord or tenant of the contracting party if such contracting party is the federal government or any federal department or agency, this state or an adjoining state, any department or agency of this state or an adjoining state, any county or city of this state or an adjoining state, or a public corporation or special, judicial or other public district of this state or an adjoining state unless the subject matter of such contract is the property in which such officer or employee has such interest as landlord or tenant in which even his/her interest shall be deemed a remote interest within the meaning of, and subject to, the provisions of Government Code 1091;
4. That of a spouse of an officer or employee of a public agency if his/her spouse's employment or office-holding has

existed for at least one year prior to his/her election or appointment;

5. That of a non-salaried member of a nonprofit corporation, provided that such interest is disclosed to the board at the time of the first consideration of the contract, and provided further that such interest is noted in its official records;
6. That of a non-compensated officer of a nonprofit, tax-exempt corporation, which, as one of its primary purposes, supports the functions of the board or to which the board has legal obligation to give particular consideration, and provided further that such interest is noted in its official records;
7. That of compensation for employment with a governmental agency, other than the governmental agency that employs the officer or employee, provided that the interest is disclosed to the board at the time of consideration of the contract, and provided further that the interest is noted in its official records;
8. That of an attorney of the contracting party or that of an owner, officer, employee or agent of a firm which renders, or has rendered, service to the contracting party in the capacity of stockbroker, insurance agent, insurance broker, real estate agent, or real estate broker if these individuals have not received and will not receive remuneration, consideration, or a commission as a result of the contract and if these individuals have an ownership interest of less than 10 percent in the law practice or firm, stock brokerage firm, insurance firm or real estate firm.

In addition, Members shall not be deemed to be interested in a contract made pursuant to competitive bidding under a procedure established by law if their sole interest is that of an officer, director, or employee of a bank or savings and loan association with which a party to the contract has the relationship of borrower or depositor, debtor or creditor (Government Code § 1091.5).

**Authority:**

California Government Code §§ 1090, et seq.

## EXHIBIT B

### Incompatible Activities Policy

District officers, members of the Board of Directors, and all other District employees (collectively, "district personnel") shall comply with this Incompatible Activities policy pursuant to California Government Code §§ 1126, et seq.

District personnel shall not engage in any employment, activity, or enterprise for compensation which is inconsistent, incompatible, in conflict with, or inimical to his or her duties as a member of the Board of Directors, or with the duties, functions, or responsibilities of his or her appointing power or the agency by which he or she is employed.

The outside employment, activity, or enterprise of district personnel is prohibited if it: (1) involves the use for private gain or advantage of his or her local District time, facilities, equipment and supplies; or the badge, uniform, prestige, or influence of his or her local District office or employment or, (2) involves receipt or acceptance by district personnel of any money or other consideration from anyone other than the District for the performance of an act which district personnel, if not performing such act, would be required or expected to render in the regular course or hours of their local District employment or as a part of their duties as a local District officer or employee or, (3) involves the performance of an act in other than his or her capacity as a local agency officer or employee which act may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement of any other officer or employee or the agency by which he or she is employed, or (4) involves the time demands as would render performance of his or her duties as a local district personnel member less efficient.

Nothing in this policy shall be interpreted to prohibit any outside employment, activity, counsel, or enterprise on behalf of another governmental entity, subject to common law and professional conflict of interest rules.

Copies of this regulation shall be posted in prominent places at the District Office. District personnel who violate this regulation may be subject to discipline as set forth in the applicable Code of Ordinances and Policies. Board of Directors members who violate this section may be subject to censure. Disciplinary appeals by district personnel shall be handled pursuant to applicable Code of Ordinances and Policies.

#### Authority:

| California Government Code §§ 1125, et seq.

